
Property Week.

The law can help neighbours in basement works disputes

Sir, last week Queen guitarist Brian May accused his Kensington neighbours of being "selfish" in carrying out basement extensions. May said the local planning rules were "nonsensical" and that a wholesale reform of the planning process was called for. His criticisms came in the same week that a pavement collapsed in Marylebone during a basement excavation

We regularly come across horror stories of botched works and damage costing many hundreds of thousands of pounds. Usually in such cases insurers are involved and getting compensation or putting things right can take a long time. Complications include insolvent or uninsured contractors.

Many residents do not realise that they have some recourse in law against issues arising from such developments. If a neighbour carries out works in an unreasonable way this is likely to constitute a nuisance. The courts have granted injunctions to prevent works and ordered substantial compensation where works are carried out in a way that disregards neighbours rights.

The best way to avoid such problems is to be fully involved and represented in the process as allowed by law. Under Party Wall legislation a neighbour is likely to be required to pay for a surveyor/party wall expert who should take steps to ensure chances of damage are minimised and there is an acceptable method statement of how the works are to be carried out,

including working hours, parking, deliveries and noise levels. Residents also need to ensure plans do not constitute an encroachment or trespass and that works are inspected so bad design or workmanship can be identified. However, there are strict time limits of which many are unaware.

This situation is far too common and the damage done can be extreme in terms of costs and disruption. Kensington and Chelsea council have said they will be bringing out new policies to reduce the scale of subterranean developments in the borough. For some residents like May, however, this may be too little too late.

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